

AN ACT concerning education.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The School Code is amended by changing Sections 2-3.25g and 5-2.1 and by adding Section 5-1b as follows:

(105 ILCS 5/2-3.25g) (from Ch. 122, par. 2-3.25g)

Sec. 2-3.25g. Waiver or modification of mandates within the School Code and administrative rules and regulations.

(a) In this Section:

"Board" means a school board or the governing board or administrative district, as the case may be, for a joint agreement.

"Eligible applicant" means a school district, joint agreement made up of school districts, or regional superintendent of schools on behalf of schools and programs operated by the regional office of education.

"State Board" means the State Board of Education.

(b) Notwithstanding any other provisions of this School Code or any other law of this State to the contrary, eligible applicants may petition the State Board of Education for the waiver or modification of the mandates of this School Code or of the administrative rules and regulations promulgated by the State Board of Education. Waivers or modifications of administrative rules and regulations and modifications of mandates of this School Code may be requested when an eligible applicant demonstrates that it can address the intent of the rule or mandate in a more effective, efficient, or economical manner or when necessary to stimulate innovation or improve student performance. Waivers of mandates of the School Code may be requested when the waivers are necessary to stimulate innovation or improve student performance. Waivers may not be requested from laws, rules, and regulations pertaining to

special education, teacher certification, ~~or~~ teacher tenure and seniority, or Section 5-2.1 of this Code or from compliance with the No Child Left Behind Act of 2001 (Public Law 107-110).

(c) Eligible applicants, as a matter of inherent managerial policy, and any Independent Authority established under Section 2-3.25f may submit an application for a waiver or modification authorized under this Section. Each application must include a written request by the eligible applicant or Independent Authority and must demonstrate that the intent of the mandate can be addressed in a more effective, efficient, or economical manner or be based upon a specific plan for improved student performance and school improvement. Any eligible applicant requesting a waiver or modification for the reason that intent of the mandate can be addressed in a more economical manner shall include in the application a fiscal analysis showing current expenditures on the mandate and projected savings resulting from the waiver or modification. Applications and plans developed by eligible applicants must be approved by the board or regional superintendent of schools applying on behalf of schools or programs operated by the regional office of education following a public hearing on the application and plan and the opportunity for the board or regional superintendent to hear testimony from educators directly involved in its implementation, parents, and students. If the applicant is a school district or joint agreement, the public hearing shall be held on a day other than the day on which a regular meeting of the board is held. If the applicant is a school district, the public hearing must be preceded by at least one published notice occurring at least 7 days prior to the hearing in a newspaper of general circulation within the school district that sets forth the time, date, place, and general subject matter of the hearing. If the applicant is a joint agreement or regional superintendent, the public hearing must be preceded by at least one published notice (setting forth the time, date, place, and general subject matter of the hearing) occurring at least 7 days prior

to the hearing in a newspaper of general circulation in each school district that is a member of the joint agreement or that is served by the educational service region, provided that a notice appearing in a newspaper generally circulated in more than one school district shall be deemed to fulfill this requirement with respect to all of the affected districts. The eligible applicant must notify in writing the affected exclusive collective bargaining agent and those State legislators representing the eligible applicant's territory of its intent to seek approval of a waiver or modification and of the hearing to be held to take testimony from educators. The affected exclusive collective bargaining agents shall be notified of such public hearing at least 7 days prior to the date of the hearing and shall be allowed to attend such public hearing. The eligible applicant shall attest to compliance with all of the notification and procedural requirements set forth in this Section.

(d) A request for a waiver or modification of administrative rules and regulations or for a modification of mandates contained in this School Code shall be submitted to the State Board of Education within 15 days after approval by the board or regional superintendent of schools. The application as submitted to the State Board of Education shall include a description of the public hearing. Following receipt of the request, the State Board shall have 45 days to review the application and request. If the State Board fails to disapprove the application within that 45 day period, the waiver or modification shall be deemed granted. The State Board may disapprove any request if it is not based upon sound educational practices, endangers the health or safety of students or staff, compromises equal opportunities for learning, or fails to demonstrate that the intent of the rule or mandate can be addressed in a more effective, efficient, or economical manner or have improved student performance as a primary goal. Any request disapproved by the State Board may be appealed to the General Assembly by the eligible applicant as

outlined in this Section.

A request for a waiver from mandates contained in this School Code shall be submitted to the State Board within 15 days after approval by the board or regional superintendent of schools. The application as submitted to the State Board of Education shall include a description of the public hearing. The description shall include, but need not be limited to, the means of notice, the number of people in attendance, the number of people who spoke as proponents or opponents of the waiver, a brief description of their comments, and whether there were any written statements submitted. The State Board shall review the applications and requests for completeness and shall compile the requests in reports to be filed with the General Assembly. The State Board shall file reports outlining the waivers requested by eligible applicants and appeals by eligible applicants of requests disapproved by the State Board with the Senate and the House of Representatives before each May 1 and October 1. The General Assembly may disapprove the report of the State Board in whole or in part within 30 calendar days after each house of the General Assembly next convenes after the report is filed by adoption of a resolution by a record vote of the majority of members elected in each house. If the General Assembly fails to disapprove any waiver request or appealed request within such 30 day period, the waiver or modification shall be deemed granted. Any resolution adopted by the General Assembly disapproving a report of the State Board in whole or in part shall be binding on the State Board.

(e) An approved waiver or modification may remain in effect for a period not to exceed 5 school years and may be renewed upon application by the eligible applicant. However, such waiver or modification may be changed within that 5-year period by a board or regional superintendent of schools applying on behalf of schools or programs operated by the regional office of education following the procedure as set forth in this Section for the initial waiver or modification request. If neither the State Board of Education nor the General Assembly

disapproves, the change is deemed granted.

(f) On or before February 1, 1998, and each year thereafter, the State Board of Education shall submit a cumulative report summarizing all types of waivers of mandates and modifications of mandates granted by the State Board or the General Assembly. The report shall identify the topic of the waiver along with the number and percentage of eligible applicants for which the waiver has been granted. The report shall also include any recommendations from the State Board regarding the repeal or modification of waived mandates.

(Source: P.A. 93-470, eff. 8-8-03; 93-557, eff. 8-20-03; 93-707, eff. 7-9-04.)

(105 ILCS 5/5-1b new)

Sec. 5-1b. Elementary school district withdrawal and transfer.

(a) Notwithstanding any other provision of this Code, the school board of an elementary school district that is located in a Class II county school unit and that, with another elementary school district, has a combined fall 2004 aggregate enrollment of at least 5,000 but less than 7,000 pupils and a combined boundary that is coterminous with the boundary of a high school district that crosses township boundaries and is subject to the jurisdiction and served by a different township treasurer and trustees of schools may withdraw from the jurisdiction and authority of the township treasurer and the trustees of schools that currently serve the elementary school district and transfer and otherwise submit to the jurisdiction and authority of the township treasurer and the trustees of schools of another township that then serves the high school district if all of the following conditions are met:

(1) During the same 30-day period, the school board of the elementary school district that is seeking withdrawal and transfer gives written notice by certified mail, return receipt requested, to all of the following: (i) the township treasurer and trustees of schools of the township

from which the district seeks to withdraw; (ii) the township treasurer and trustees of schools of the township to which the district seeks to transfer; (iii) each school district currently subject to the jurisdiction and authority of the township treasurer and trustees of schools of the township from which the elementary school district is seeking to withdraw; and (iv) each school district currently subject to the jurisdiction and authority of the township treasurer and trustees of schools of the township in which the elementary school district is seeking to transfer. This notice must set forth the date, time, and place of a meeting of the school board of the elementary school district that is seeking withdrawal and transfer, to be held not more than 90 days before and not less than 60 days after the date on which the notice is given, at which meeting the school board shall consider and vote upon a resolution to withdraw from the jurisdiction and authority of the township treasurer and the trustees of schools that currently serve the elementary school district and transfer and otherwise submit to the jurisdiction and authority of the township treasurer and the trustees of schools of another township that then serves the high school district. No notice given under this subdivision (1) to the township treasurer and trustees of schools of a township shall be deemed sufficient or in compliance with the requirements of this subdivision (1) unless each required notice is given within the same 30-day period.

(2) The school board of the elementary school district that is seeking withdrawal and transfer, by the affirmative vote of at least 5 members of the school board at a school board meeting for which notice has been given as required by subdivision (1) of this subsection (a), adopts the resolution.

(3) The question of whether to withdraw from the jurisdiction and authority of the township treasurer and the trustees of schools that currently serve the elementary

school district and transfer and otherwise submit to the jurisdiction and authority of the township treasurer and the trustees of schools of another township that then serves the high school district is submitted to the electors of the elementary school district at a regular election and approved by a majority of the electors voting on the question. After the resolution has been adopted, the school board shall certify the question to the proper election authority, which must submit the question at an election in accordance with the Election Code. The election authority must submit the question in substantially the following form:

Shall the school board of School District Number be authorized to withdraw from the jurisdiction and authority of the township treasurer and the trustees of schools of Township and transfer and otherwise submit to the jurisdiction and authority of the township treasurer and the trustees of schools of Township?

The election authority shall record the votes as "Yes" or "No". If a majority of the electors voting on the question vote in the affirmative, then the school board of the elementary school district may withdraw from the jurisdiction and authority of the township treasurer and the trustees of schools that currently serve the elementary school district and transfer and otherwise submit to the jurisdiction and authority of the township treasurer and the trustees of schools of another township that then serves the high school district.

(b) If all of the conditions under subsection (a) of this Section have been met, then the withdrawal and transfer shall be effective by operation of law on July 1 of the calendar year in which the election under subdivision (3) of subsection (a) of this Section was held.

(c) Upon the effective date of the transfer of jurisdiction of the township treasurer and trustees of schools to the

receiving township under this Section, all of the following shall occur: (i) the receiving trustees of schools, in its corporate capacity, shall be deemed the successor in interest to the trustees of schools of the transferring township with respect to the interest attributable to the school district's common school lands and township loanable funds of the township; (ii) all right, title, and interest attributable to the school district existing or vested in the transferring trustees of schools in the common school lands and township loanable funds of the township and all records, moneys, securities, other assets, rights of property, and causes of action attributable to the school district pertaining to or constituting a part of those common school lands or township loanable funds attributable to the school district shall be transferred to and deemed vested by operation of law in the receiving trustees of schools, which shall hold legal title to, manage, and operate all common school lands and township loanable funds of the township, receive the rents, issues, and profits therefrom, and have and exercise with respect thereto the same powers and duties set forth under this Code to be exercised by trustees of schools; and (iii) whenever there is vested in the transferring trustees of schools, at the time that a transfer is effected under this Section, the legal title to any school buildings or school sites used or occupied for school purposes by an elementary school, subject to the jurisdiction and authority of those trustees of schools at the time that such transfer is effective, the legal title to those school buildings and school sites shall be transferred by operation of law to and invested in the receiving trustees of schools, the same to be held, sold, exchanged, leased, or otherwise transferred in accordance with applicable provisions of this Code.

(d) In the event that it is necessary to sell or otherwise dispose of any asset, investment, or security that is in the name of the school district and other districts not transferring from the jurisdiction of a township treasurer and

trustees of schools, any fees or costs incurred in such disposition and any loss in value caused by the early sale or disposition shall be entirely borne by the school district transferring from the jurisdiction of a township treasurer and trustees of schools.

(e) As provided under Section 2-3.25g of this Code, a waiver of a mandate established under this Section may not be requested.

(f) This Section is repealed on January 1, 2010.

(105 ILCS 5/5-2.1) (from Ch. 122, par. 5-2.1)

Sec. 5-2.1. Eligible Voters: For the purposes of this Article persons who are qualified to vote in school elections shall be eligible to vote for the trustees of schools who have jurisdiction over the elementary school district or unit school district in which the person resides.

~~If However, if~~ the application of this Section results in an elector voting for trustees of a school township in which he does not reside because the elementary or unit school district crosses township boundaries and has been assigned to the jurisdiction of the trustees of an adjoining township, that elector shall also be eligible to vote for the trustees of the township within which he resides. Moreover, an elector who resides in a high school district that crosses township boundaries and has been assigned to the jurisdiction of the trustees of an adjoining township shall be eligible to vote for both the trustees of the township in which he or she resides and the trustees of the township having jurisdiction over the high school district in which he or she resides.

(Source: P.A. 85-1435.)

Section 99. Effective date. This Act takes effect upon becoming law.